

California Regional Water Quality Control Board
Santa Ana Region

April 26, 2002

ITEM: 16

SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Ionuc Retegan, 15710 Silver Spur Road, Riverside County

DISCUSSION:

Mr. Benjamin Ionescu, the property owner's architect, on behalf of the property owners, Mr. & Mrs. Ionuc Retegan, contacted Board staff to request approval for the use of a third septic tank-subsurface disposal system at 15710 Silver Spur Road, Riverside County. Mr. & Mrs. Retegan reside in a 7-bedroom, 3-bath house located at the site. Two existing subsurface disposal systems are utilized for the discharge of sanitary wastes from the house. The property is over one acre in size (34,848 sq. ft. or 1.25 acre net). This area of the County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of sanitary wastes.

Mr. & Mrs. Retegan propose to construct a detached garage with office and full bathroom near the front of their property. Mr. & Mrs. Retegan propose to install a new 750-gallon septic tank-subsurface disposal system to serve this bathroom. The proposed new construction will be located near the creek which traverses the property (see Attachment "1").

On October 13, 1989, the Regional Board adopted a Basin Plan amendment that requires new developments for which on-site subsurface disposal use is proposed to have a minimum of one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwaters of the Region.

In adopting the minimum lot size requirements (MLSRs), the Board recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSRs address these circumstances. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSRs. However, the MLSRs state that a proposal to add any freestanding structure that would result in additional wastewater flows must be considered a "new" development, subject to the MLSRs. Clearly, Mr. & Mrs. Retegan's proposed bathroom is a freestanding structure that would result in additional wastewater flows. As such, the development on the property as a whole (the existing house and the freestanding garage/office/bathroom addition) must now be considered a "new" development, to which the one-half acre minimum lot size requirement applies. Since Mr. & Mrs. Retegan's property is just over one acre, use of the existing two subsurface disposal systems conforms to the minimum lot size requirements. However, Mr. & Mrs. Retegan's proposed addition of a third subsurface disposal system does not. Staff therefore denied Mr. & Mrs. Retegan's request for a clearance

for the project. Staff also advised Mr. Ben Ionescu, the owner's architect, that for subsurface disposal system use adjacent to a Creek, the County requires a 50-foot setback from the edge of the Creek. The information provided by Mr. Ionescu indicated that there is a 40-foot separation from the edge of the Creek to the proposed septic system.

The Board's intent in distinguishing between additions that are attached to existing dwellings and freestanding structures was to guard against the use of the freestanding structure as a second single family residence on the property, either immediately or in the future. Mr. & Mrs. Retegan stated that because the distance from the house to the proposed garage/office is 30 feet, use of the bathroom in the garage is necessary. They point out that the additional flows that would occur as a result of this project would be no greater than those that would be allowed if they were to construct an add-on to the existing house, which would be exempt from the minimum lot size requirement. However, looking to the long term, there is no way to guarantee that the garage/office could not be converted into separate living quarters. Such a situation would result in the wastewater flow of two single-family residences on essentially a 1.25 acre lot, clearly in violation of the Board's minimum lot size requirements.

As a matter of information, staff was advised by Mrs. Retegan that the main residence is planned to be used for an elderly care facility in the near future. If such use is implemented, it may affect the long term use of the detached garage/bathroom.

In adopting the minimum lot size requirements, the Board included criteria that could be used by Board staff to grant exemptions from the requirements. These criteria include an offset option, whereby a project proponent can be granted an exemption from the minimum lot size requirement provided that the proponent connects to the sewer another septic tank system in the area. The system connected must not be required to connect to the sewer. Board staff advised Mr. and Mrs. Retegan of this option, but they have not indicated any interest in pursuing it.

It is worth noting that no plans have been submitted to the County for approval regarding the proposed project.

RECOMMENDATION:

Deny Mr. & Mrs. Retegan's request for an exemption from the minimum lot size requirements for the use of a third septic system to serve the proposed addition.

Comments were solicited from the following agencies

State Water Resources Control Board, Office of Chief Counsel – Jorge Leon
Riverside County Department of Environmental Health – Sam Martinez/Greg Dellenbach
Riverside County Department of Building and Safety – Tom Ingram
Riverside County Department of Planning – Mark Balys
Benjamin Ionescu

PLOT PLAN

Not To Scale

